REMARKS/ARGUMENTS

Applicants respectfully request entry of the above preliminary amendment.

A restriction requirement was mailed on May 10, 2000 in the prior application Serial No. 09/307,223 (our File No. 021935-000110US). In that restriction requirement, the Examiner required election between the following five groups:

1. Group I: Claims 1-20, 55-75;
2. Group II: Claims 21-34;
3. Group III: Claims 35-46;
4. Group IV: Claims 47-54; and
5. Group V: Claims 76-79.

Groups I-V were subject to a further election species. This application presents for prosecution Group I claims which recite the elected **agent species** of antibody, and the elected **tissue species** of neoplastic tissue and ocular tissues[1] when using any method of administration[2].

More specifically, claims reciting ocular tissue (Claims 4, 5, 68-72, and new Claims 97 and 98) and neoplasm tissue (Claims 9-12, 58-63 and new claims 87, 88, and 99-104) are presented herein in view of the Examiner's rejoinder of these species of tissue. Also, claims reciting administration by intravenous (Claims 65 and 71), oral (Claims 66 and 72), and interneoplasm (Claim 67) routes are presented herein based on the Examiner's rejoinder of the species based on the method of administration of the agent.

The Specification has been amended herein pursuant to 35 U.S.C. § 120 to recite the divisional status of this application, and its relationship to prior applications filed by Applicant.

Claims 6-8, 13, 14, 16-18, 21-54, 73 74 and 76-79 have been cancelled, and claims 1, 2, 15, 55, and 57 have been amended. Applicant's cancellation of claims 6-8, 13, 14,

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[1] The Examiner stated that "the species of neoplasm and ocular pathology are rejoined." Office Action mailed in the priority 09/307,223 application, on March 9, 2001, page 3, first paragraph.

[2] The Examiner stated that "the requirement for species election drawn to administration of the agent is withdrawn." Office Action mailed in the priority 09/307,223 application, on March 9, 2001, page 3, second paragraph.

16-18, 21-54, 73, 74, and 76-79, and amendment of claims 1, 15, 55, and 57 was for the purpose of conforming with the restriction requirement, and does **not** narrow the scope of any of the claims within the meaning of *Festo*,[3] because cancellation and amendment of these claims is not related to a "statutory requirement for a patent" but rather is related to the Patent Office's convenience for organizing searches. Applicant reserves the right to file the non-elected (or similar) claims in another application(s).

In particular, claims 1, 55, and 57 have been amended by adding the recitation that the agent "comprises an anti-$\alpha 5\beta 1$ integrin antibody or an $\alpha 5\beta 1$ integrin binding fragment of said antibody" to reflect Applicant's election of the species of antibody. Support for this amendment is in (for example) originally-filed claim 51 which recited that the "agent comprises an anti-$\alpha 5\beta 1$ integrin antibody or an $\alpha 5\beta 1$ integrin binding fragment of said antibody."

Claim 2 has been amended by cancelling the term "substantially." This amendment does not narrow claim 2 within the meaning of *Festo* because preferred numerical ranges which fall within the scope of un-amended claim 2 are recited in new claims 80, 82, and 84.

Claims 6-8, 73, 74 have been cancelled since they are directed to the non-elected species skin tissue, synovial tissue, bone tissue, and joint tissue.

Claim 13-14 have been cancelled as they are directed to the non-elected species of peptide agent.

Claim 15 has been amended to avoid potential duplication of amended claim 1 by reciting a preferred embodiment of antibody.

Claim 16-18 have been cancelled as being directed to the non-elected species of nonpeptide organic molecule agent.

Claims 21-54 and 76-79 are cancelled as they are directed to non-elected claim Groups II-V.

Claims 80-117 have been added to describe exemplary embodiments of the invention. In particular, support for claims 80-85, 89-95, and 108-114 is found in the

[3] *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 234 F.3d 558, 56 USPQ2d 1865 (Fed. Cir. 2000) (en banc) (Nov. 29, 2000).

Specification[4] which discloses the recited numerical ranges for binding specificity. Support for the recitation of a $\alpha V\beta 3$ integrin in claims 81, 83, 85, 90, 92, 94, 109, 111, and 113 is also found in the Specification, on page 23, lines 6-14.

New claim 86 which recites that the tissue is in a "human subject" is supported by the originally-filed claim 56. The recitation in new claims 87 and 101 of "a sarcoma, a mesothelioma, a teratocarcinoma, an astrocytoma, and a glioblastoma" is supported by the originally-filed claim 63. Support for the recitation in new claims 88 and 104 of "breast carcinoma, a colon carcinoma, an ovarian carcinoma and a pancreatic carcinoma" is found in originally-filed claim 62. Support for new claims 96-100, 102, 103, 105, 106 is found in the originally filed claims 3-5, 9-12, 19, and 20. New claims 107 and 117 are supported by the originally filed claim 15. Newly added claims 115 and 116 are supported by the recitations in claims 19 and 20.

Applicant's amendments do not introduce new matter.

[4] Specification, page 23, lines 6-14.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100 .

Respectfully submitted,

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